



Virginia  
Regulatory  
Town Hall

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## Periodic Review / Retain Regulation Agency Background Document

<b>Agency name</b>	Virginia Department of Labor and Industry/Safety and Health Codes Board
<b>Virginia Administrative Code (VAC) citation</b>	16 VAC 25-35-10 et seq.
<b>Regulation title</b>	Regulation Concerning Certified Lead Contractors Notification, Lead Project Permits, and Permit Fees
<b>Document preparation date</b>	March 16, 2009

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 36 (2006) and 58 (1999).

### Legal basis

*Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.*

Section 40.1-51.20 of the Code of Virginia mandates that all certified lead contractors notify the Department of Labor and Industry prior to commencement of each lead abatement project in which certification is required by the Department of Professional and Occupational Regulation. The contractor shall also obtain a lead permit and pay the appropriate fee in accordance with this Code section. This regulation establishes the notification requirements and provides that the Department of Labor and Industry conduct on-site inspections of each certified lead contractor's actual abatement projects. This regulation does not exceed the mandate required by Section 40.1-51.20.

### Alternatives

*Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were*

*rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.*

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The Department of Labor and Industry did not consider any alternatives to this regulation because it is mandated by state law.

### Public comment

*Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

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Commenter	Comment	Agency response

No public comments were received on this regulation during the public comment period which began on January 5, 2009, and ended on January 26, 2009. The agency and the Safety and Health Codes board did not establish an informal advisory group for the purpose of assisting in the periodic review.

### Effectiveness

*Please indicate whether the regulation meets the criteria set out in Executive Order 36, e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.*

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The regulation has three goals:

1. Reduce the incidence of material impairment of the health of Virginians due to exposure to lead in the workplace or as an environmental pollutant.
2. Require certified lead abatement contractors to notify the government of lead abatement projects and pay fees to cover the cost of administering the program.
3. The protection of the public's health, safety and welfare with the least possible cost and intrusiveness.

The regulation provides for the identification of certain lead abatement projects and the tracking of active projects. Section 40.1-51.21 of the Code of Virginia requires that at least once a year, during an actual project, the Department of Labor and Industry conduct an on-site, unannounced inspection of each certified lead abatement contractor's procedures in regard to the removal of

lead-based paint. This inspection ensures protection of the health of the workers and also the health of the general public by controlling the release of lead into the environment or residence. The regulation also provides a concise procedure for the notification and payment of fees associated with lead projects. Inspections conducted in accordance with this regulation have shown a consistent decline in violations of both safety and health work practices, resulting in decreased material health impairment of both employees and the public. The regulation is clearly written and easily understandable.

### Result

*Please state that the agency is recommending that the regulation should stay in effect without change.*

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The Department of Labor and Industry and the Safety and Health Codes Board recommend retaining the regulation without change.

### Family impact

*Please provide an analysis of the regulation's impact on the institution of the family and family stability.*

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This regulation has no impact on the institution of the family or family stability.